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SUBJECT: EU CONSTITUTION AND ENLARGEMENT: PROSPECTS FOR THE FUTURE

Classified By: Political Officer Vincent Carver for reason 1.5 (b/d).

SUMMARY

11. (C) Pundits and politicians have claimed that the EU Constitution is everything from dead to simply waiting for the European Council in June for resuscitation. Cries of a "crisis" in the EU following the French and Dutch referenda are overstated; the EU is functioning, even if it is not meeting expectations of those seeking a stronger and more unified Union. The EU may eventually decide to draft a streamlined version, possibly along lines that French Interior Minister Sarkozy has suggested, of the current text, but such a decision probably will not come until at least after the French national elections. A treaty on Croatian accession, foreseen around 2009, may incorporate some of the institutional reforms envisioned by the constitutional treaty, but the EU must address its economic woes and enlargement fatigue to help bolster such a treaty's ratification chances. Several observers predict that the EU will sponsor a new constitutional convention by the end of the decade, but note that leaders will have to do a much better job at "selling" a constitution -- and enlargement, including to the Western Balkans and Turkey -- to skeptical voters. END SUMMARY

CONSTITUTION: USEFUL DRAFT

12. (C) Dutch FM Bot recently characterized the EU constitution -- technically, it is a "treaty" on the constitution of Europe -- as "dead." French Interior Minister Sarkozy took a different track in mid-January, calling for a slimmed down version focusing on how the EU at 25 could function better. Most of our contacts agree that the Dutch and French governments will not resubmit the current text to their voters for reconsideration. Several sources, including Council Secretariat officials Guy Milton and David Galloway (both of whom worked on the treaty draft), have told us that the most likely scenario for a "constitution" is for member states to agree on the need for both a more streamlined text and a more active public relations campaign to convince voters of the benefits a constitutional treaty could bring. In this regard, several of our contacts predicted that national parliaments and NGOs would have a larger role in a future constitutional convention than they had under Giscard d'Estaing's convention. They also acknowledged the need to do a much better job at "selling" the constitution in a public relations campaign.

CURRENT "CRISIS?" NO, BUT ...

13. (C) Various EU leaders have termed the constitutional treaty's rejection by the French and the Dutch as a crisis. From our view, this is an overstatement. The EU continues to operate and take decisions, including on key foreign policy issues that are priorities for the U.S., such as: the Balkans, the MEPP, Iraq, and Afghanistan. Turkey and Croatia were invited to begin accession negotiations in October 2005 and a financial framework for 2007-13 was agreed upon by the 25, albeit with much last-minute maneuvering; the framework is still being negotiated with the European Parliament. Would EU decision-making be more effective if the constitutional treaty were to have been ratified? Probably, as the constitutional treaty envisioned the creation of an EU president (albeit one whose duties are vague) and foreign minister, and provided for a rotating membership on the Commission to accommodate further expansions of the EU. But the EU -- a complex set of institutions combining the EU bodies in Brussels (and elsewhere) and 25 national governments is not operating in a crisis mode.

FIX ECONOMY; ADDRESS ENLARGEMENT FEARS

14. (C) Almost all of our contacts polled, including diplomats from the "new" member states, point to the employment figures in the three EU countries -- the UK, Ireland and Sweden -- that allowed free movement of labor from the "new" member states with the 2004 accession to

discredit fears of the "Polish plumber" taking away jobs in the old member states. Whether through the Lisbon Agenda (the focus of the European Council March 23-24), Tony Blair's call for investment in research and development, or through individual policies adopted by member states, the EU must increase economic growth and lower unemployment if it hopes to avoid a repetition of the "no" votes in any subsequent referendum on a constitutional treaty. It will also need a climate of economic growth to help increase the ratification chances of future enlargement. Barroso and his Commission will have to push harder in these areas, however, particularly given the current climate of defending "national" versus "European" interests in strategic industries.

15. (C) Charles Grant, Director of the Center for European Reform in London, has argued in a February 2006 presentation that the demise of the constitutional treaty has created major obstacles to further enlargement of the EU. Some of Enlargement Commissioner Olli Rehn's staff have told us that Rehn shares this view and therefore is increasingly meticulous about demanding that candidate countries strictly meet the *acquis* criteria. One cannot take for granted support from all member states for continued enlargement, they advise, especially if the Commission is viewed as cutting corners to expedite any country's admission. One of Rehn's advisors told us privately that the 2004 wave was perhaps too large for the EU to absorb at one time, but the momentum for uniting Europe after the fall of the Berlin Wall was strong enough to overcome any serious reservations. Now, while Eurocrats seek to support the entry of the Western Balkans and Turkey, common citizens -- and various politicians -- are increasingly asking about the practical effects of an enlarged EU.

16. (C) Rehn's public refrain on the value of enlargement in the Western Balkans is simple: it is better for the EU to export stability than to import instability. The accession process for Macedonia, SaM, BiH, and Albania, however, likely will be lengthy. Political leaders from those countries may try to pressure the EU to reward them for "good political behavior" with expedited accession, even if they fall short of EU standards in other areas. They may also argue that their populations are tiring of the reform process and need the "lift" of membership to implement reforms.

17. (C) Rehn will resist such pressure. Given the current climate, the Commission's turning a blind eye to *acquis* requirements for political expediency would cause increased public opposition to any such enlargement. The Commission will also have to demonstrate clearly that Turkish accession negotiations -- an unpopular issue in several member states -- not only help reinforce reforms inside Turkey but also strengthen a "Western" country whose population is overwhelmingly Muslim. In the context of the current cartoon controversy, Turkish accession negotiations may be seen in both this positive light and, by xenophobic politicians and their followers in member states, as yet another "problem" imported by the EU.

18. (C) The June 2006 European Council in Vienna is slated to debate the "future of Europe." Contacts at the UK and German missions, as well as a Rehn staffer, have told us they hope EU leaders will focus on Europe as a place of shared values and will probably maintain the ambiguity of the Treaty of Rome regarding enlargement -- it is open to all European countries -- without defining exactly where Europe's borders lie. Several of our contacts noted that, while consideration of a Ukrainian candidacy is far off, member states would find it difficult to argue against Ukrainian membership (once Kiev implements serious economic and political reforms) while continuing accession negotiations with Turkey.

WHY SHOULD WE EVEN CARE?

19. (C) Other than presenting an interesting academic debate, the future of the EU constitutional treaty is important to the U.S. for four reasons: (1) continued debate over it will consume some of the attention of European leaders over the coming years, potentially diverting them from issues of importance to us; (2) enlargement of the EU is treaty-based, and the rejection of the constitution may "embolden" the publics in various member states to demand greater say in future enlargement decisions, complicating Turkish accession. The French have amended their constitution to provide for a referendum on any future enlargement (read Turkey) after Romania, Bulgaria and Croatia join; (3) despite its critics, EU enlargement has been a great success story and should be extended to the Western Balkans, Turkey and possibly to other areas of Europe to solidify economic, political and societal reforms there; and (4) European integration and the single market have energized economic growth; a strong Europe in a rapidly changing global economy usually serves U.S. interests.

TIMELINES

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10. (C) The current period of reflection over the constitutional treaty, adopted following the failed referenda, is due to end with the Austrian-led debate on the future of Europe. Many of our contacts, however, do not see real decisions being made on how to address the constitution question until after the 2007 French national elections. At that point, the German EU Presidency would be in its last weeks, and it would be up to the Commission and the Portuguese and Slovene presidencies to execute whatever plan the German presidency might forge at the June 2007 European Council. While the German Mission here is sticking to Chancellor Merkel's line that Berlin supports the current constitutional treaty text, many of our other contacts in the Council, Commission, and member state missions here, doubt that the text rejected by the French and the Dutch has much hope for resuscitation.

11. (C) Parts of the constitution, particularly those dealing with the creation of an EU foreign minister (and the end of a commissioner for external relations) and diplomatic service, could be attached to the treaty for Croatian accession. All member states (presumably 27 at that time) would have to ratify the Croatian accession treaty; most member states likely would follow their practice of ratification via national parliaments. Adding elements from the constitutional treaty to the Croatian accession treaty would be one way to introduce constitutional-type changes via a "back door" approach. Such an approach, however, is not risk-free, as the publics in member states could accuse their governments and the Commission of ignoring the lessons of the French and Dutch referenda. Much will depend on the economic climate of Europe around 2009 and how well the proponents of such an approach package the public relations campaign for the Croatian accession treaty. Most of our contacts predict, however, that a convention aimed at producing a slimmed down version of the constitutional treaty, with participation by more representatives of member state national parliaments and civil society, will begin by the end of this decade.

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